

## Message Text

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E.O. 11652: N/A  
TAGS: BPUB, CO  
SUBJ: REVISION AND UPDATING OR OVERSEAS BUSINESS REPORT  
THE ANDEAN COMMON MARKET: IMPLICATIONS FOR U.S. BUSINESS

REF: STATE 245279 STATE 279834

IN RESPONSE TO THE REFTEL, THE FOLLOWING ARE THE ANSWERS  
PERTINENT TO COLOMBIA.

1. THE OFFICE OF FOREIGN EXCHANGE OF THE CENTRAL BANK (OFICINA DE CAMBIO DEL BANCO DE LA REPUBLICA) LOCATED AT CARRERA 5 NO. 15-80, BOGOTA, AND THE NATIONAL PLANNING DEPARTMENT (DEPARTAMENTO NACIONAL DE PLANEACION) LOCATED AT CARRERA 10 NO. 27-27, BOGOTA, ARE THE GOVERNMENT ENTITIES WICH REVIEW AND APPROVE FOREIGN INVESTMENTS.

2. LAWS AFFECTING FOREIGN INVESTMENTS ARE: DECREE 1900 (ADOPTED SEPTEMBER 15, 1973) IMPLEMENTS ANDEAN INVESTMENT CODE IN COLOMBIA BY ESTABLISHING CRITERIA FOR ACCEPTABLE FOREIGN INVESTMENT AND BY ESTABLISHING TERMS FOR IMPORTATION OF TECHNOLOGY THROUGH PATENTS, TRADEMARKS, AND LICESING. DECREE 444 (ADOPTED MARCH 22, 1967) - LAYS DOWN PROCEDURE FOR FOREIGN INVESTMENT AND PROFIT REMITTANCE; DECREE 1897 (ADOPTED SEPTEMBER 15, 1973) IMPLEMENTS IN COLOMBIA DECISION 46; DECREE 169 (ADOPTED IN JANUARY, 1975) - STIPULATES THAT FOREIGN INVESTMENT MAY BE ALLOWED IF THE PURPOSE OF INVESTMENT IS FOR OTHER THAN DOMESTIC MARKETING; LAW 55 (ADOPTED DECEMBER 19, 1975)  
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- STATES THAT FOREIGN-OWNED BANKS MUST SELL DOWN TO A MINORITY

EQUITY OF NO MORE THAN 49 PERCENT BY DECEMBER 15, 1978; DECREE 295 (ADOPTED IN FEBRUARY, 1975) - COMMISSION FORMED TO OVERSEE CONVERSION OF FOREIGN OWNERSHIP.

3. THE COLOMBIAN GOVERNMENT'S ATTITUDE IN REGARD TO FOREIGN INVESTMENT IS TO WELCOME SUCH CAPITAL WHEN IT CONFORMS TO THE LAWS AND PRIORITIES IN ITS DEVELOPMENT PLAN AS SUCH CAPITAL IS NEEDED FOR THE EXPLOITATION OF NATURAL RESOURCES. LATELY, THE GOVERNMENT HAS BEEN MORE FLEXIBLE IN APPROVING FOREIGN INVESTMENT AND HAS ON OCCASION MADE EXCEPTIONS TO THE CRITERIA REGARDING FOREIGN INVESTMENT. EXAMPLES THE TYPES OF INVESTMENT WHICH COLOMBIA SEEKS ARE THOSE WHICH EXPLOIT OIL, GAS, MINERAL RESOURCES; THOSE WHICH DEVELOP EXPORT-ORIENTED INDUSTRIES; AND THOSE WHICH AID THE DEVELOPMENT OF COLOMBIA'S AGGREGATE INDUSTRIAL PLANNING, ESPECIALLY IN THE RURAL AREAS. COLOMBIA TENDS TO REJECT FOREIGN INVESTMENTS IN THOSE SECTORS WHICH CONTRIBUTE NO NEW TECHNOLOGY OR PROVIDE NO CAPITAL TOWARD ASSISTING THE LESSER DEVELOPED AREAS OF THE NATIONAL ECONOMY.

4. IN KEEPING WITH THE LEGISLATION CITED IN PARAGRAPH 2, THE CRITERIA UPON WHICH THE COLOMBIAN GOVERNMENT BASES ITS DECISION TO APPROVE OR DISAPPROVE FOREIGN INVESTMENT ARE AS FOLLOWS: (A) NEW FOREIGN INVESTMENT MAY BE APPROVED IF IT IS IN AN EXISTING COMPANY WHICH SELLS LOCALLY-MADE PRODUCTS WHOSE EXPORT SALES ARE AT LEAST 40 PERCENT AND THE UNDISTRIBUTED PROFITS ARE RE-INVESTED; (B). NEW FOREIGN INVESTMENT MAY BE APPROVED FOR NEW COMPANIES WHICH WILL EXPORT OVER 80 PERCENT OF THEIR OUTPUT; (C). FOREIGN INVESTMENT MAY BE APPROVED IN A NEW OR EXISTING FIRM WHICH IS TESTING THE MARKET FOR A PRODUCT WHICH WILL BE LOCALLY PRODUCED FOR EXPORT WITHIN THREE YEARS; (D). WHENEVER POSSIBLE, ENTERPRISES RESULTING FROM NEW FOREIGN INVESTMENT ARE TO BE LOCATED AWAY FROM THE LARGE URBAN CENTERS; (E). NEW FOREIGN INVESTMENT MAY BE APPROVED IF IT GENERATES NEW EMPLOYMENT AND TECHNOLOGY.

5. DIVERGENCE ON THE PART OF COLOMBIA FROM THE GUIDELINES OF DECISION 24 ARE TO BE FOUND IN THESE INSTANCES; (A). THE NATIONAL COUNCIL ON ECONOMIC AND SOCIAL POLICY MAY MODIFY THE 14 PERCENT LIMITATION ON REMITTANCES OF PROFITS FOR FOREIGN ENTERPRISES IN THE EXTRACTIVE INDUSTRIES; (B). NEW UNCLASSIFIED

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FOREIGN INVESTMENT IS ALLOWED IF A COMPANY EXPORTS AT LEAST 40 PERCENT THEIR LOCALLY-MADE PRODUCTS; (C). NEW INVESTMENT IS PERMITTED IF AT LEAST 40 PERCENT OF AN ENTERPRISE'S TOTAL SALES ARE EXPORTS OF LOCALLY-MADE GOODS OR IF NEW INVESTMENT IS INTENDED TO TEST MARKET FOR LOCAL PRODUCTION OF IMPORTED ITEMS.

6. THE EXTRACTIVE INDUSTRIES ARE EXEMPTED FROM THE APPLICATION

OF FOREIGN INVESTMENT PROVISIONS RELATING TO NON-AVAILABILITY OF DEPLETION ALLOWANCES AND THE TWENTY YEAR LIMITATION ON CONCESSION CONTRACTS. FREE TRADES ZONES ARE ALSO EXEMPTED FROM THE ANDEAN PACT PROVISIONS. MAJOR SPECIAL LIMITATIONS FOR FOREIGN INVESTORS ARE THE PROHIBITION OF LAND INVESTMENT BY FOREIGNERS AND THE PROHIBITION OF MEDIUM OR LONG TERM LOANS TO COMPANIES WHICH HAVE MORE THAN 50 PERCENT FOREIGN CAPITAL.

7. REMITTANCES OF EARNINGS BY FOREIGN FIRMS ARE MONITORED BY THE FOREIGN EXCHANGE OFFICE OF THE CENTRAL BANK, WHICH EXAMINES THE BALANCE SHEETS, THE MINUTES OF THE STOCKHOLDERS' MEETING, ETC., TO DETERMINE EARNINGS OF THE COMPANY DURING THE PERIOD FOR WHICH DOLLARS ARE BEING REQUESTED. PROCEDURE IS GENERALLY FREE OF PROBLEMS AS A COMPANY RECEIVES DOLLARS TO BE REMITTED IN THE AMOUNT OF 14 PERCENT OF ITS EARNINGS WITHIN ABOUT SIX WEEKS. COLOMBIA MOST LIKELY WILL ADOPT PROVISIONS OF DECISION 103 IN THE FUTURE.

8. UPON THE AUTHORIZATION OF THE NATIONAL ROYALTIES COMMITTEE, PAYMENTS ARE MADE FOR INTANGIBLE CONTRIBUTIONS, BUT THEY MAY NOT BE COMPUTED AS CAPITAL CONTRIBUTIONS. NO ROYALTY PAYMENTS ARE PERMITTED FOR INTANGIBLE TECHNOLOGICAL CONTRIBUTIONS FURNISHED BY A PARENT COMPANY OR FOREIGN BRANCH TO AN AFFILIATE COLOMBIAN COMPANY.

COLOMBIA DOES NOT APPROVE ROYALTY CONTRACTS; (A). WHICH REQUIRE RECIPIENT ENTERPRISE TO ACQUIRE CAPITAL ASSETS, INTERMEDIATE ASSETS, RAW MATERIALS OR TECHNIQUES FROM A SPECIFIC SOURCE; (B). WHICH ALLOW THE TECHNIQUE-SELLING ENTERPRISE TO KEEP ITS RIGHT TO THE PRICES FOR SALE OR RE-SALE OF THE PRODUCTS MANUFACTURED ON THE BASIS OF SAID TECHNIQUE; (C). WHICH RESTRICT PRODUCTION ACCORDING TO VOLUME AND STRUCTURE; (D). WHICH PROHIBIT THE USE OF COMPETITIVE TECHNIQUES; (E). WHICH ESTABLISH AN OPTION FOR TOTAL OR PARTIAL PURCHASE IN FAVOR UNCLASSIFIED

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OF THE SUPPLIER OF TECHNOLOGY; (F). WHICH REQUIRE PATENT OWNERS TO BE PAID ROYALTIES ON UNUSED PATENTS; (G). WHICH REQUIRE PURCHASER OF TECHNOLOGY TO DISCLOSE TO SUPPLIER ANY INVENTIONS OR IMPROVEMENTS ACCOMPLISHED THROUGH USE OF SAID TECHNOLOGY; (H). WHICH PROHIBIT OR LIMIT EXPORTATIONS OF PRODUCTS MANUFACTURED IN CONJUNCTION WITH THE CORRESPONDING TECHNIQUE; (I). WHICH GUARANTEE A MINIMUM ANNUAL PAYMENT; (J). WHICH REQUIRE LICENSE TO PAY TAXES CORRESPONDING TO THE GRANTOR.

9. TERMS FOR SHORT TERM LOANS TO FOREIGN INVESTORS FALL UNDER NO GOVERNMENT LIMITATIONS THEREBY MAKING CREDIT NEGOTIABLE BETWEEN LENDER AND BORROWER. AT PRESENT, LOCAL CREDIT FOR SHORT TERM LOANS FOR FOREIGN INVESTORS IS TIGHT. SANCHEZ

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